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CITIZEN POTAWATOMI NATION

April 15, 2014

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RE: Comments on PL 102-477 Proposed Changes

Background:

Public Law 102-477 established what is commonly known as the “477 Program,” which authorizes tribal governments to consolidate up to thirteen different programs from the Department of Interior, Department of Labor, Department of Education, and Department of Health and Human Services into a single plan, approved by the Secretary of the Interior, to foster employment and economic development in Indian Country. While PL 102-477 is still technically a “demonstration project,” the 477 Program has existed for over two decades and there are currently approximately 265 tribes that consolidate multiple programs into a single 477 Plan. The 477 Program provides tribal governments with the flexibility to design employment, training, and economic development plans that utilize funding from several federal programs to best meet the needs of their local communities.

In addition to allowing tribal governments to tailor multiple programs to meet the need of their citizens, PL 102-477 greatly reduces administrative burden by streamlining program, statistical, and financial reporting requirements. Tribes operating under 477 Plans complete a single narrative, statistical, and financial report based on their approved 477 Plan rather than completing multiple reports for individual programs. This reduced administrative burden allows for more time and money to be spent on direct services rather than duplicative reporting requirements.

Despite nearly two decades of success, the 477 Program was jeopardized in 2008 when the Department of Interior and the Department of Health and Human Services threatened to end the transfer of 477 Program funds via the Indian Self-Determination and Education Assistance Act. In 2009, OMB Circular A-133 included a proposed requirement to require 477 Tribes to report expenditures by individual funding source. These two developments threatened the continued viability of the 477 Program. After tribal leaders expressed their frustration with the unilateral actions taken by federal officials, the two proposals were suspended pending tribal/federal negotiations.

After tribal and federal officials struggled to resolve outstanding differences regarding the 477 Program, Congress included language in FY 2012 Interior Appropriations legislation that instructed the federal agencies to engage in consultation with tribal officials to reach consensus and permanently resolve their issues. This language led to the formation of the Public Law 102-477 Administrative Flexibility Work

Group. The Workgroup is composed of both federal and tribal representatives. The Citizen Potawatomi Nation had one staff member on this workgroup, Margaret Zientek, Employment & Training Assistant Director, also representing the PL 102-477 Tribal Workgroup Executive Committee as Co-Chair.

After two plus years of conference calls and face-to-face meetings, the Workgroup concluded its initial phase on January 24, 2014. Compromise has been difficult, but not unattainable. Thus far, the Workgroup has reached compromise positions on several issues. The Workgroup has developed a checklist for the use of Federal officials to help streamline the 477 Plan review and approval process. Although the members of the Flexibility Workgroup agree there is still much to do, the Federal Partners have published for comment a financial reporting system based on five functional cost categories: 1.) cash assistance, 2.) child care services, 3.) education, employment, training and supportive services, 4.) program operations, and 5.) administrative costs. The Workgroup additionally agreed on a revised narrative report that Tribes will use to highlight the programs included in their 477 Plans. Many of these compromise positions are reflected in the updated financial, statistical, and narrative forms and instructions that the Department of Interior published for comment and consultation on February 14, 2014. It's a first step to resolving the many issues identified.

Comments:

The Citizen Potawatomi Nation believes PL 102-477 embodies the ideas of self-governance and self-determination. It has proven successful for over 20 years and demonstrates how tribes can effectively consolidate limited funding to address the unique needs of their tribal members and accomplish their individual tribal goals. The Office of Management and Budget gave the 477 Program the highest PART rating of any program in the DOI/DHHS, which documents the success and past performance of the 477 Program. These successes can be attributed to streamlined funding through ISDEAA allowing flexibility for tribes to integrate separate programs into one consolidated Plan organized in a manner that best meets the unique local needs of their respective communities.

The Citizen Potawatomi Nation has concerns with the proposed changes to reporting for PL 102-477. First and foremost, we question the need for these proposed changes as the current reporting system is appropriate and satisfies all reporting requirements. Just as importantly, these proposed changes do not allow for the flexibility and decreased administrative burden allowed under PL 102-477. It is the position of the Nation that in principle, these proposed changes do not follow the original intent of the law.

The compromise positions of the Administrative Flexibility Workgroup are reflected in the updated financial, statistical, and narrative forms and instructions that the Department of Interior published for comment. The following are specific issues with the proposed changes:

1. In the document titled *A Reporting System for Public Law 102-477, Indian Employment, Training, and Related Services Demonstration Act:*
 - a. Under the Paperwork Reduction Act Statement, this section states, "*The report is used to monitor the progress of the grantees in delivering services to Tribal members, to identify unmet needs, to identify any other problems, and to provide information to justify budget submissions by the three federal agencies involved.*" However, the first paragraph (correctly) identifies four federal agencies. Three should be corrected to four.
 - b. Instructions regarding TANF 2a-f in Family Assistance Plan. Please clarify (or correct?) reference.
2. The Statistical Report :
 - a. Section II.A.4. asks for the Average Adult Earnings Gain. However, in the column for Cash Assistance Recipients both adults and youth are included. Is the average earnings

gain to be listed only for adult cash assistance recipients? Or is the intent to report Average Earnings Gain (drop specification 'adult')? We would recommend that the answer would include information for any CAR recipient.

3. Statistical Report Instructions:

- a. Instructions should CLEARLY specify that the demographics of the participant is determined at time of application, for both total participants and total terminees. (If the participant was under 21 at time of application, the participant should be counted in the second column labeled, "Youth", except for persons receiving cash assistance. Additionally, the education level at the time of entry is what is reported in the terminee section.) This means that if a participant was a 'dropout' at entry, and during the service period, obtained their GED, they would still be reported has a 'dropout' in this report.
 - b. Instructions specify that individuals receiving cash assistance is also determined at time of enrollment, or within six months prior to enrollment, or deemed eligible to receive cash assistance at any time during enrollment. **This manner of reporting does accommodate a means of reporting those who receive TANF or GA participants at any time during the service period.**
4. Instructions for Terminee Outcomes need to clarify that terminees can be counted once in each category. (i.e. Employment Objective, Education/Training Objective, and Miscellaneous Objective Achieved). This does raise a question regarding how to report a person who achieves multiple goals and then dies? For example: this person achieves Education goal, and is seeking employment when they lose their life.

5. Annual Financial Expenditure Report:

- a. The Indirect Cost information is not identified on this form, which is inconsistent with the SF425 Federal Financial Report.
 - b. The Program Income is not identified on this form, which is inconsistent with the SF425 Federal Financial Report.
 - c. Increases administrative burden on tribes with implementing the use of "cost categories".
 - d. The items listed for the various cost categories are confusing and subjective.
 - e. We recommend that this section explain the reporting methodology by Plan Period. For example: An Annual Report shall be prepared and submitted for each Plan Period until all of the funds available for the Plan Period have been fully expended and reported. The Total Unexpended Funds must be zero in a final report for each Plan Period.
6. Annual Financial Expenditure Report Instructions:
- a. Under item 5. Final Report, we suggest "The Total Unexpended Funds must be zero in a final report for the Plan Period." in order to clarify the reporting methodology by each individual Plan Period.
 - b. There are no instructions as to how to report (or not report) Program Income.

7. Combined Functional Cost Categories:


- a. Administrative Cost document under the Guidance section, the last bullet point is incomplete. It states, "*Other costs for goods and services required for administration, including rental or purchase of equipment, utilities, and office supplies; and*"
- b. Administrative Cost document under the Guidance section, we recommend guidance language regarding administrative cost caps.

8. Implementation Concerns:

- a. Transition from current reporting to proposed reporting forms. To transition, tribes must begin at least 1 year prior to change methods of financial expenditures in order to account in a report the use the funds.
- b. It is impossible to judge the impact of these reporting changes without the accompanying OMB Supplement regarding the adoption of these forms.
- c. Carryover Fund Reporting – instructions are confusing. It is our interpretation that Tribes will be required to do two financial reports BUT not two statistical or narrative reports in a final 'closeout' report for a 3 year plan period.
- d. Face-to-face training on the new forms is essential. This extremely detailed training and information could not feasibly be done electronically

Thank you for the opportunity to provide comments on these proposed changes to the PL102-477 Initiative.

Sincerely,
CITIZEN POTAWATOMI NATION


Linda Capps
Vice Chairman